

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 61819

Ernest Leonard
5910 Ayleshire Road
Baltimore, MD 21239

3739 Lochearn Drive

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on July 1, 2009 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 35-5-209 (c)(1), failure to maintain floors, walls and other interior surfaces in a clean, safe and sanitary condition; section 35-2-404 (a)(1)(vi), failure to repair exterior (waterproofing) on residential property known as 3739 Lochearn Drive, 21207.

On June 10, 2009, pursuant to Baltimore County Code §3-6-205, Inspector Ryan Fisher issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$500.00 (five hundred dollars).

The following persons appeared for the Hearing and testified: Ernest Leonard and Ellen Leonard, owners of property and, Ryan Fisher, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on June 3, 2009. This Citation was issued on June 10, 2009.

B. Inspector Ryan Fisher testified that he inspected the property following receipt of a complaint by the tenant, who complained of mold in the basement. Inspector Fisher testified that he found surface mold on the lower walls in the basement, and a carpet near the bathroom that was saturated with water. He further testified that the tenant said the carpet gets wet every time there is a storm. The landlord had previously removed and replaced part of the wall but the source of the water had not been corrected. Inspector Fisher telephoned the property owner, Mr. Leonard, and spoke with him on June 10, 2009. Mr. Leonard advised that he could not afford to make repairs, and this Citation was issued.

C. The tenants have moved out of the property. They called Inspector Fisher the week of June 22, 2009 to say they had found another place to live because of the mold in the basement.

D. Mrs. Ellen Leonard testified that they had sent a contractor over to address the problems but that the tenant wouldn't let the contractor in. Mr. and Mrs. Leonard further testified that they are in the process of eviction because the tenant was not paying rent, and that their next court date is July 14, 2009. They further testified that they need access to the property to fix the gutters and to fix the basement.

E. Respondent has an obligation to maintain this investment property, whether or not the tenant is cooperative. Baltimore County Code provides that the Building Engineer shall require an owner of investment property to repair "[I]neffective waterproofing of exterior walls, roofs, and foundations." BCC Section 35-2-404. County Code also requires maintenance of the structure to ensure that exterior walls and roof does not permit entry of water, and requires that the interior be kept in a safe and sanitary condition. BCC Sections 35-5-208, 35-5-209.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$500.00 (five hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$100.00 if the violations are corrected by August 24, 2009. If the Respondent fails to correct the violations, the full civil penalty shall be imposed.

IT IS FURTHER ORDERED that if not paid within 30 days of billing, the civil penalty as authorized above shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 7th day of July 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.